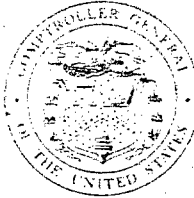


DECISION



14315-6000
**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

FILE: B-196218.2

DATE: July 17, 1980

MATTER OF: Porta Power Pak, Inc. -- Reconsideration

DIGEST:

Prior decision is affirmed where request for reconsideration fails to advance factual or legal grounds upon which reversal would be warranted.

Porta Power Pak, Inc. (Porta Power) requests reconsideration of our decision in Porta Power Pak, Inc., B-196218, April 29, 1980, 80-1 CPD 305, in which we denied the firm's protest that invitation for bids DLA400-79-B-3465 for portable power distribution systems for the Department of the Navy issued by the Defense General Supply Center contained proprietary data. Porta Power had contended that it submitted the data to the Government in 1971 in connection with a mobile power distribution system that it had developed, and that the submission was accompanied by a restrictive legend. However, we were unable to conclude that Porta Power actually had established the confidentiality of its data when it was submitted, or presently had demonstrated the uniqueness of its design, i.e., that the data could not independently be obtained from publicly available literature or common knowledge.

In its request for reconsideration, Porta Power states that it has tape recordings of 1973 telephone conversations with Navy personnel and other documentation which show that at least at that time even the Navy considered the subject data to be proprietary to Porta Power. The firm also essentially reiterates its basis for protest.

We first point out that section 20.9(a) of our Bid Protest Procedures, 4 C.F.R. part 20 (1980), requires that a detailed statement of the factual or legal grounds which allegedly warrant reversal of a decision of our Office be submitted within 10 working days after the basis for reconsideration is known or should have been known; the mere statement that evidence to support

~~011345~~

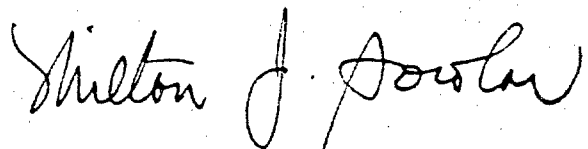
112803

a request for reconsideration exists does not fulfill that requirement. Megapulse, Inc.--Reconsideration, B-194986, May 21, 1980, 80-1 CPD 350.

In any event, we cannot see how the existence of the 1973 tape recordings mentioned would establish that the instant procurement violated Porta Power's proprietary rights, particularly since the firm has not disputed our conclusion with respect to present public knowledge of its design. In this connection, as we pointed out in our April 29 decision a protester must present clear and convincing evidence to prevail on this issue. See Chromalloy Division-Oklahoma of Chromalloy American Corporation, 56 Comp. Gen. 537 (1977), 77-1 CPD 262.

Since the request for reconsideration does not advance facts or legal arguments which show that our earlier decision was erroneous, the decision is affirmed.

The protester has requested a conference in connection with the request for reconsideration. Our Bid Protest Procedures do not provide for conferences in this situation. We believe a conference should be granted in connection with a request for reconsideration only where the matter cannot be resolved without one. In our judgment, this is not such a case. See General Electric Company--Reconsideration, B-190632, September 11, 1979, 79-2 CPD 185.



For The Comptroller General
of the United States